(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench

CRM. P. NO 24 /2006

HON'BLE S.B.

PETITIONER : Aman Singh

(ACCUSED) S/o. Fakir Singh Chandrakar

Aged about 60 years

R/o. 20 Shala Marg, Choubey Colony, Raipur (C.G.)

3554/06

22/8/06

Filed on ..... Advocate

by Shri Ashy Tiwari

22/8/06

R.E.D.R. (J)

VERSUS

RESPONDENT : Dr. Harshverdhan Tiwari

COMPLAINANT S/o. Late Ram Gopal Tiwari

Aged about 60 years

R/o. R-2 Kanchan Ganga, Face-2

Deendayal Upadhyay Nagar

Raipur (C.G.)

PETITION UNDER SECTION 482 OF CR.P.C.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.M.P.No. 24/06 **सन्** 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

24.08.2006

Shri Abhay Tiwari, counsel for the petitioner.

None for the respondent.

Heard.

Factual matrix of the case, in brief, is that respondent filed a complaint against the petitioner for committing offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (henceforth " the Act") alleging that the petitioner issued a cheque in favour of the respondent for Rs.50,000/- (Rupees fifty thousand) on 25.06.1998 for the discharge of the debt. When that cheque was presented for payment, Bank bounced it because of the amount of money standing to the credit of that account was insufficient to honour the cheque. Trial Court, after recording preliminary evidence, registered the case and directed issuance of summons to the petitioner.

Petitioner filed an application under Section 204 of the Cr.P.C. for quashing the complaint on the ground that the amount mentioned in the cheque had already been received by the respondent in the year 1999. That application was dismissed by the trial Court vide order dated 05.10.2005. The order was challenged in revision, 9th Additional Sessions Judge Raipur vide order dated 19.07.2006 passed in Criminal Revision No. 12/2006, dismissed the revision. Feeling

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

(26)

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

aggrieved, this petition under Section 482 of the Cr.P.C., has been filed for quashing the complaint filed by the respondent against the petitioner under Section 138 of the Act.

Admittedly, cheque has been issued by the petitioner in favour of respondent and it has been bounced. Under Section 139 of the Act, presumption has to be drawn in favour of the holder; therefore, whether the amount has already been received by respondent in 1999 or not is a matter to be proved by evidence during the trial. Hence, the proceeding pending before the trial Court is not liable to be quashed at this initial stage, that too, without rebuttal of the presumption available in favour of the respondent in accordance with Section 139 of the Act.

In view of the above, the petition is liable to be dismissed summarily, and is accordingly dismissed *in-limine*.

Sd/-
V.K. Shrivatava
Judge

padma

(पीछे देखिये)

28-8-06